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July 8, 2002

**BY HAND AND ELECTRONIC DELIVERY**

Mr. Don Abelson  
Chief, International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Request for change of *ex parte* treatment from restricted to permit-but-disclose, IB Docket No. 02-111

Dear Mr. Abelson:

Bell Atlantic New Zealand Holdings, Inc. ("BANZHI") and Pacific Telecom Inc. ("PTI") (together with BANZHI, the "Joint Applicants") respectfully request that the Federal Communications Commission ("Commission") modify the above-referenced proceeding from "restricted" to "permit-but-disclose" for purposes of the agency's *ex parte* rules.<sup>1</sup> In this proceeding, the Joint Applicants seek Commission approval for the transfer of control from BANZHI to PTI of certain Commission licenses and authorizations held by Micronesian Telecommunications Corporation ("MTC") and its wholly owned subsidiary GTE Pacifica Inc. ("GTE Pacifica").<sup>2</sup> On June 17, 2002, several interested parties ("Opposing Petitioners") filed petitions to deny the proposed transaction and, on July 1, 2002, the Joint Applicants opposed these petitions.

The Commission and its staff have great discretion to determine that a particular restricted proceeding should be declared permit but disclose. Where "the public interest so requires," the Commission or its staff may modify the applicable *ex parte* status by order, letter or public notice.<sup>3</sup> Further, where a "restricted proceeding not designated for hearing involves broadly applicable policy," the Commission or its

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<sup>1</sup> 47 C.F.R. §§ 1.1200, 1.1202(d) and 1.1208.

<sup>2</sup> These licenses and authorizations include a cellular radiotelephone service license, a cable landing license, two earth station licenses and two international section 214 authorizations held by GTE Pacifica, as well as blanket domestic section 214 authorizations held by GTE Pacifica and MTC.

<sup>3</sup> 47 C.F.R. § 1.1200(a).

July 8, 2002

Page 2

staff may specify that the proceeding will be conducted in accordance with the provisions of 47 C.F.R. § 1.1206 governing permit-but-disclose proceedings.<sup>4</sup>

Exercising such discretion is fully warranted here because a number of broadly applicable policy issues have been raised. For example, the proposed transfer of control requires reconciliation of national security concerns with WTO obligations. Additionally, in response to issues raised by the Opposing Petitioners, the Commission will determine whether the legal presumption that the public interest will be served by up to 100 percent indirect foreign ownership of U.S. common carrier radio licenses (a) applies to investors from a developing WTO member country, and (b) applies to so-called “sole-source” telecommunications facilities in U.S. overseas territories. Further, the Opposing Petitioners argue that the rate integration provisions of Section 254(g) of the Communications Act effectively prohibit the FCC from granting a transfer of control of insular facilities to any entity, domestic or foreign, without affiliated mainland operations.

Allowing the Joint Applicants and the Opposing Petitioners throughout the transfer of control process to engage in free discussion with the Commission and its staff will help achieve public interest objectives. Given the broadly applicable policy issues present, full and open discussion with the Commission and its staff is critical to ensure that all nuances are clearly identified and understood and all ramifications are fully evaluated.<sup>5</sup> These discussions will also best assist the Commission in developing a complete record on which a well-reasoned decision can be made.<sup>6</sup>

For these reasons, the Applicants respectfully request designation of the above-referenced proceeding as *ex parte* permit but disclose.

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<sup>4</sup> 47 C.F.R. §1.1208, note 2.

<sup>5</sup> See Public Notice Report No. SAT-00035 (designating the applications of Intelsat LLC as non-restricted, permit but disclose in light of the “unusual nature” and “numerous broad international policy issues” involved).

<sup>6</sup> See Public Notice Report No. SPB-136 (noting that the application of SatCom Systems, Inc. raised “novel and complex technical and policy issues” and designating the proceeding permit-but-disclose “in order to assist the Commission in developing a complete record on which a well-reasoned decision can be made.”)

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July 8, 2002

Page 3

Respectfully submitted,

/s/

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**CERTIFICATE OF SERVICE**

I, Nicole A. Rothstein hereby certify that on July 8, 2002, a copy of the foregoing request for change of *ex parte* treatment from restricted to permit-but-disclose in IB Docket No. 02-111 was served on all parties listed below by hand delivery (indicated by asterisk) and U.S. mail, first class, postage prepaid.

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